

S/N 10/821,223
Our Ref. No. 659-2246
Client Ref. No. 16146.1

REMARKS

In the Office Action mailed January 5, 2007, the Examiner rejected all pending claims 1-20, 22 and 24 under 35 USC 103 as being obvious over U.S. Patent No. 4,022,212 to Lovison in view of U.S. Patent No. 6,911,023 to Hamilton. Applicants respectfully submit that the Examiner has failed to make out a prima facie case of obviousness since there is no suggestion to combine the references as asserted by the Examiner (MPEP 2143 and 2143.01).

At the outset, Applicants note that all of the pending independent claims recite “at least a first fastener member and a second fastener member fixedly secured to and *extending outboard from said first and second opposite side edges* of said first body panel respectively,” wherein each of said first and second fastener members comprises “a refastenable portion,” and “first and second extension members fixedly secured to and *extending outboard from said first and second opposite side edges* of said second body panel respectively, wherein said refastenable portion of said first fastener member *releasably engages* said first extension member and wherein said refastenable portion of said second fastener member *releasably engages* said second extension member.”

As acknowledged by the Examiner, Lovison “does not teach at least first and second fastener members fixedly secured to and extending outboard from said first and second side edges 60” (Office Action at 3). As a threshold matter, Applicants disagree that reference number 60, as called out by the Examiner, refers to any “first and second opposite side edge” of either body panel. Rather, 60 is the side edge of the sanitary pad B, applied by the Examiner as the “crotch portion.” Indeed, Applicants respectfully submit that Lovison does not teach *any* pair of outboard side edges on either the front or rear panels 13, 15, let alone that such edges are connected to fastener members or extension members as recited in the claims.

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Instead, Lovison discloses a unitary trunk portion 11 (Lovison at Col. 2, lines 35-59; FIG. 4). Lovison further discloses that the sanitary napkin B bridges a gap between lower edges 14, 16 of front and rear panels 13, 15 respectively (*Id.*). As such, the entire premise of Lovison is to provide a *releasable attachment mechanism* between the sanitary napkin B and the Garment A, such that the user is provided with a comfortable panty-type garment that fits almost any size user but can accommodate an inelastic sanitary napkin (Lovison at Col. 1, line 50 to Col. 2, line 7; Col. 3, lines 35-43 (“any satisfactory type of detachable fasteners may be used as described”)). Moreover, the panty-type garment is reusable, with an old napkin B being “detached” from the garment and “a new napkin . . . attached in place of the original one” (Col. 2, lines 12-14; Col. 3, lines 32-34).

In contrast, Hamilton discloses a diaper 20 having a chassis with a fixed length between a front and rear waist edge (Hamilton at Col. 4, lines 9-35; FIG. 6). The diaper includes a fastening system configured to releasably fasten the garment about the waist of the user (Hamilton at Col. 4, lines 40-45).

Importantly, there is no suggestion to incorporate the fastening system of Hamilton into the garment A of Lovison. First, Lovison expressly teaches that the elastic material of the panty-type garment A provides for a “single size” that fits “essentially all wearers” (Lovison at Col. 1, line 64 to Col. 2, line 6; Col. 1, lines 1, lines 25-32 (“the object and purpose of the invention is to provide a new type of sanitary napkin with its supporting garment, a single size of which will fit a large number of women of varying body sizes and shapes”)). As such, Lovison teaches a panty-type garment, not a refastenable garment as disclosed by Hamilton. Indeed, any substitution of the fastening system of Hamilton would change the very principles of operation of Lovison (MPEP 2143.01).

Moreover, such a combination would render Lovison unsatisfactory for its intended purpose (MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed.

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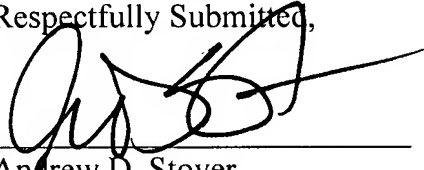
Cir. 1984)). In particular, if the fastening system of Hamilton is incorporated into Lovison, such that front and rear panels 13, 15 are *refastenably connected* along side portions thereof, then the front and rear panels 13, 15 will be *completely disconnected* from each other once the garment is removed from the user and the sanitary pad is removed for disposal. In this configuration, the front and rear panels 13, 15 would essentially be free of any connection to each other (free of any connection at the crotch *and* at the sides), thereby making the garment difficult to properly assemble or use. As such, the completely separated panels can be easily lost and are not maintained in the same position relative to each other, thereby making it difficult for the user to reassemble the garment with a new pad and diminishing the ability of the user to achieve a good fit with the garment. Simply put, there is no suggestion to make a garment detachable along the crotch edge *and* along opposite side edges. For at least these reasons, Applicants respectfully submit that the Examiner's rejections should be withdrawn and this case passed to allowance.

If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

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